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Indigenous people's rights and safeguards in projects related to reducing emissions from deforestation and forest degradation

Note by the Secretariat

Pursuant to a decision of the Permanent Forum on Indigenous Issues at its tenth session (see E/2011/43, para. 29), Paul Kanyinke Sena, Myrna Cunningham and Bertie Xavier, members of the Permanent Forum, conducted a survey of indigenous people's rights and safeguards in projects related to reducing emissions from deforestation and forest degradation. The report is hereby transmitted to the Forum

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Summary

Activities related to reducing emissions from deforestation and forest degradation can have a profound impact on the rights and livelihoods of indigenous peoples. Depending on the rules in place globally and in each country, in particular those regarding access to information, free, prior and informed consent and governance, the impact may be positive or negative.

The present report aims to summarize the current status of activities under the REDD-plus mechanism (reducing emissions from deforestation and forest degradation in developing countries and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks) and their possible impact on the rights and livelihoods of indigenous peoples. It considers the nature of potential benefits to indigenous peoples and how those benefits could be secured through the various safeguard mechanisms being developed.

I. Introduction

1. A performance-based mechanism is being negotiated under the United Nations Framework Convention on Climate Change under which developed countries would compensate developing countries for reductions in their greenhouse gas emissions from deforestation and forest degradation.

2. The issues of greenhouse gas emissions from deforestation and ways to promote and reward the avoidance of deforestation were not included in the Kyoto Protocol to the Framework Convention owing to their technical and operational complexity and the lack of a political consensus. The issue of deforestation avoidance was brought into the Framework Convention negotiations at the eleventh session of the Conference of the Parties, held in Montreal, Canada, in 2005. Since 2005, and especially since the thirteenth session, held in Bali, Indonesia, in 2007, the secretariat of the Framework Convention has been considering the negotiation of a mechanism to reduce emissions from deforestation and forest degradation in developing countries (REDD) under the Framework Convention to reward countries that are able to reduce levels of deforestation and forest degradation or avoid future deforestation.

3. Under the Bali Action Plan (FCCC/CP/2007/6/Add.1, decision 1/CP.13), adopted by the Conference of the Parties to the Framework Convention at its thirteenth session, the concept of REDD was broadened to cover policy approaches and positive incentives on issues relating to reducing emissions from deforestation and forest degradation in developing countries and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries (see FCCC/CP/2007/6/Add.1, decision 2/CP.13). The resulting broadening of the concept of REDD signified a recognition that forests were more than stocks of carbon and that a future mechanism should be concerned not just with climate change mitigation but also with simultaneously capturing the co-benefits in the form of conservation and sustainable management of forests. This expanded concept came to be known as REDD-plus.

4. The process of agreeing to the methodological, operational and financial framework for a future REDD-plus mechanism under the Framework Convention has proved to be slower and more complicated than originally envisaged. Issues related to the mechanism have been the subject of negotiation at successive Framework Convention meetings since 2005, and there are still outstanding questions to be resolved. Many participants and observers now feel that an agreed performance-based mechanism operating at the national level in participating countries is unlikely to be fully operational before 2020.

5. In the meantime, the types and the number of REDD-related activities and projects have grown to a point where their impact on climate change mitigation and forest conservation may no longer depend on the future outcomes of the negotiations under the Framework Convention. The types of programmes and projects categorized as REDD-plus include:

- "REDD readiness" activities: tropical forest countries assisted by international agencies and donors are undertaking the preparatory activities necessary to build national capacities and enable countries to comply with the rules and procedures of the future mechanism

- Preparations for the entry into force of cap-and-trade legislation in some developed countries that may permit carbon offsets in developing countries that support REDD-plus
- REDD-plus activities at the subnational level involving partnerships between State and provincial administrations in developed and developing countries
- Individual REDD-plus projects: activities in defined forest areas involving local communities and national or foreign non-governmental organizations (NGOs), private companies and/or other types of intermediaries, undertaken as part of voluntary carbon markets or in anticipation of the entry into force of regulatory cap-and-trade regimes in developed countries

6. Alongside the growth in action designed to reduce emissions from deforestation and forest degradation, there is also a growing awareness that national climate change action may be driven by a country's other development priorities. Climate concerns and development are not necessarily competing and may well be complementary policy priorities. This can be observed, for example, in some countries' national agriculture or transport policies. In the case of forests and climate, the acknowledgement that conservation and sustainable forest management lead to emission reductions has restored the issue of forests to a position of prominence in the international policy agenda.

7. REDD-plus can be a mechanism for achieving sustainable development outcomes that benefit tropical forests and their populations while simultaneously delivering climate change mitigation benefits. For indigenous peoples and other forest-dependent communities concerned with securing rights and enhancing sustainable livelihoods, REDD-plus may offer both a promising new policy environment and access to resources that enable those rights and livelihoods to be realized. Whether the impact of REDD-plus policies and activities on indigenous peoples will be positive or negative will depend largely on the recognition of their rights, their level of participation and the nature and effectiveness of safeguards to be applied at the international and national levels.

II. Deforestation, forest degradation and climate change mitigation

8. Deforestation and forest degradation are responsible for an estimated 17 per cent of global greenhouse gas emissions. Reducing the rates of deforestation and forest degradation is a way to reduce global emissions and thereby limit dangerous increases in average global temperatures. In addition to being an end in itself, REDD-plus is a way to "buy time" by reducing in the short term the rate of average global temperature increases, thereby allowing the complex structural changes that will facilitate the switch to low-carbon economies to be implemented before dangerous thresholds are reached.

9. Traditional indigenous territories encompass up to 22 per cent of the world's land surface and coincide with areas that hold 80 per cent of the planet's biodiversity. The greatest diversity of indigenous peoples coincides with the world's largest tropical forest areas in the Americas, Africa and Asia, of which only 11 per cent of world forest lands are legally owned by indigenous peoples and

communities, creating continuous tension because of the adoption of decisions without their participation.

10. The focus of REDD-plus is commonly assumed to be tropical forests. However, there is increasing evidence that emissions from tropical savannahs, wetlands and peat lands are similar to those from tropical forest ecosystems. Developing countries with those ecosystems can decide whether their national REDD-plus programme will apply equally. This is important in the light of the number of indigenous peoples worldwide whose territories can be found in those ecosystems.

III. Potential benefits and risks to indigenous peoples

11. The potential benefits to indigenous peoples and communities of well-designed and well-governed REDD-plus programmes include:

- Recognition in legislation and public policies of land tenure rights for indigenous peoples and other forest communities as Governments seek to comply with internationally agreed safeguard systems
- Respect for and implementation of indigenous knowledge and traditional forest management systems
- Generation of revenues that Governments, in agreement with indigenous peoples, can direct to services and investments that benefit forest communities
- Maintenance of regulatory ecosystem services (for example, ancestral land-use regulations, water production, flood control or pollination) that enhance community capacity for adaptation to climate change
- Maintenance of provisioning ecosystem services (for example, traditional medicines and diversified food provision), which could cushion the impact of reduced agricultural yields on communities that may result from climate change
- New income streams for forest communities and dwellers obtained from selling credits in carbon markets, participating in conservation payment programmes, receiving carbon fund distributions or providing services to forest-monitoring processes

12. On the other hand, there is a risk that valuing forests for their climate change mitigation capacity could mean that REDD-plus activities undermine some of the ecosystem services that forests provide and that are especially important to the lives and livelihoods of indigenous peoples and other forest communities. Similarly, REDD-plus could create new incentives for Governments to restrict communities' access to forests. The insecurity of land tenure for many indigenous peoples and other forest-dependent communities may make them especially vulnerable to such risks, which can include:

- Violations of customary land rights, leading to the loss of access to forests, land use conflicts or physical displacement from forests
- Marginalization as Governments seek to reserve forest carbon revenues for the State, which may entail stalling or reversing recent trends towards the

decentralization of forest ownership and management responsibilities to communities

- Delinking forest carbon rights from forest ownership or management rights, thereby denying the fair participation of communities in the financial benefits of forest carbon programmes
- Communities' inability to participate in conservation payment programmes owing to the non-recognition of property rights (either to forests or to forest carbon), a lack of information or high implementation or transaction costs or because their historical contributions to conservation paradoxically make them ineligible
- Exploitative carbon contracts that could lead communities to unknowingly accept terms that sign away land-use rights, assume liability for forest loss or accept payments that undervalue the true opportunity costs of the land use foregone
- Inadequate governance and safeguard systems that lead to the capture by others, such as local elites, corrupt officials or criminal networks, of REDD-plus benefits
- Decreased local food production, creating food security risks and resulting in the loss of livelihood
- Increased tension between the recognition of indigenous self-government regimes and the centralized management of areas under REDD-plus

13. Recognition and agreement that the rights of indigenous peoples and local communities must be considered when implementing REDD actions, as standards and safeguards, that the full and effective participation of indigenous peoples and other forest-dependent communities in policy and programmatic decision-making must be ensured, that agreed safeguard systems have to be put in place and that information on the operations of such safeguard systems needs to be made available are reflected in decisions under the Framework Convention and from other processes related to REDD-plus. There is also agreement to respect the knowledge and rights of indigenous peoples, taking into account relevant international obligations, including those in the United Nations Declaration on the Rights of Indigenous Peoples.

14. A consequence, however, of the multiplicity of REDD-plus initiatives and programmes has been the emergence of multiple sets of standards and safeguards. Several indigenous organizations have developed guidelines, training programmes, research and exchange visits to assist indigenous peoples in order to be prepared when dealing with REDD-plus programmes.[1] An urgent task is to ensure the mutual compatibility of the differing safeguards at the highest level of protection and to facilitate their implementation, such that Governments and other REDD-plus actors are given clear and consistent guidelines for implementation and are not overburdened by unnecessarily bureaucratic or overlapping requirements that may

[1] Leonardo A. Crippa and Gretchen Gordon, "International law principles for REDD+: the rights of indigenous peoples and the legal obligations of REDD+ actors", working paper (Helena, Montana, and Washington, D.C., Indian Law Resource Center, 2012). Available from www.indianlaw.org.

be beyond their administrative capacity to implement or may involve high transaction costs.

IV. Programmes and projects under the mechanism

15. The ultimate goal of the REDD-plus negotiations is the establishment of a system of performance-based payments for emission reductions achieved by reducing deforestation and forest degradation. This would be "payment by results", that is, payments would be made only at the end of the agreed period and following verification that the agreed reductions had been achieved.

16. Since the adoption of the Cancun Agreements in 2010, the full operationalization of a global REDD-plus mechanism under the Framework Convention has been conceived as a three-phase process comprising:

(a) A preparation and readiness phase, consisting of national REDD-plus strategy development, capacity-building, institutional development and demonstration activities;

(b) An early-action phase, involving the piloting and testing of strategies, capacity enhancement, the development of a REDD-plus project portfolio, the setting of the reference levels and the creation of the measurement, reporting and verification infrastructure;

(c) Performance-based payments, representing full REDD-plus implementation mode, with quantified emission reductions, certified emission reductions and benefit sharing.

17. Under the 2009 Copenhagen Accord, developed countries committed to providing $30 billion in "fast-start financing" for the period 2010-2012 and to jointly mobilizing $100 billion a year by 2020 to address the needs of developing countries. By November 2012, funders had reported allocations to fast-start REDD-plus activities amounting to approximately $5.2 billion, covering 731 arrangements involving 40 countries.[2]

18. The mechanisms for channelling the fast-start financing included multi-donor funds, such as the United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries administered by the Food and Agriculture Organization of the United Nations (FAO), the United Nations Development Programme (UNDP) and the United Nations Environment Programme (UNEP); the Forest Carbon Partnership Facility administered by the World Bank, which supports 37 forest developing countries (14 in Africa, 15 in Latin America and the Caribbean and 8 in Asia-Pacific) to develop reference scenarios, adopt a REDD-plus strategy, design monitoring systems and set up REDD-plus national management arrangements in preparation for future systems of financial incentives for REDD-plus; and the Forest Investment Programme within the World Bank's Climate Investment Funds, which supports REDD-plus efforts in eight developing countries.

19. Those funds were intended to be interim arrangements during the readiness phase, with the expectation that the Green Climate Fund would supersede them in

[2] www.reddplusdatabase.org.

the future. In the longer term, how the full operations of the phase 3 performance-based payments system will be funded remains undecided. Decisions adopted at the sessions of the Conference of the Parties in Durban, South Africa, and Doha allow for the possibility of funding through market and non-market mechanisms.

20. Another category of REDD-plus activities is taking place at the subnational level through the Governors' Climate and Forests Task Force, a REDD-plus network started in 2008 by the State of California that currently involves 19 State and provincial governments, including 6 from the Brazilian Amazon region and 6 from Indonesia, as well as subnational governments from Mexico, Nigeria and Peru. The main motivation behind the Task Force is the entry into force of the California cap-and-trade programme, which uses a market-based mechanism to lower greenhouse gas emissions. The California programme will be second in size only to the European Union emissions trading system on the basis of the amount of emissions covered.

21. As from the beginning of 2013, the cap-and-trade rules apply to large electric power plants and large industrial plants. In 2015, they will extend to fuel distributors. At that stage, the programme will encompass about 360 businesses throughout California and nearly 85 per cent of the state's total greenhouse gas emissions. Up to 8 per cent of the total compliance obligation can be met through offsets, which must comply with the protocols approved by the California Air Resources Board and are initially limited to projects in the United States of America.

22. However, the framework is in place for the international expansion of the California programme, which will allow offsetting through projects in other countries. In 2010 the governments of California, Chiapas, Mexico, and Acre, Brazil, signed a memorandum of understanding to begin the process of developing a state-to-state sectoral REDD linkage recommendation that will provide the foundation for eventual submission to the California Air Resources Board, as defined in the California cap-and-trade programme (art. 3). In other words, the three states create the possibility of future offsetting in Chiapas and Acre by companies in California subject to the cap-and-trade legislation. Simultaneously, Acre has enacted into law a state environmental service incentive system designed to reduce deforestation and deliver benefits to the state's indigenous groups, extractivist communities and small-scale rural producers, including through offsets under the California programme.

23. A similar possibility arises in the context of the Carbon Farming Initiative of Australia, a carbon offsets scheme that is part of the country's carbon market and that allows Australian farmers and land managers, including indigenous Australians, to earn carbon credits by storing carbon or reducing greenhouse gas emissions on the land. The credits can then be sold to people and businesses wishing to offset their emissions. The Initiative also helps the environment by encouraging sustainable farming and providing a source of funding for landscape restoration projects. Through the Initiative, indigenous communities are able to reduce emissions and generate sustainable incomes through the Australian carbon market. Although the Initiative is currently limited to Australian land managers, the transferability of the methodology and project experience to indigenous land managers in developing countries is currently being explored.

24. The third category of REDD-plus activities, perhaps the category under which indigenous communities will have the most direct experience, consists of REDD-plus projects involving emission reductions in specific forest areas. This category differs from previous categories of national and subnational REDD-plus activities ("jurisdictional REDD-plus") by the existence of a direct relationship between the forest community and the REDD-plus developer.

25. There is a wide spectrum of such local REDD-plus projects. At one end there are cases where the initiative for the project springs from a community decision, perhaps as a way of funding its own previously determined territorial management and community development aspirations. In such cases the community may have the capacity necessary to negotiate and implement the project, or it may be able to call upon the technical assistance of trustworthy intermediaries with the necessary skills and contacts (for example, NGOs or Government agencies) that are able to broker funding arrangements with individual companies that, for reputational reasons, as part of their corporate social responsibility policy or in anticipation of future cap-and-trade obligations, are disposed to invest in voluntary REDD-plus activities. Under such a scenario, it is likely that the arrangement will be certified under one of the voluntary carbon standards and preconditions of free, prior and informed consent and that mutually agreed terms will be met. Thus, an indigenous community that enjoys legal recognition as such and exercises clear control of its territory is, in theory, in a strong position to make use of REDD-plus to advance its community-defined strategy for future livelihood development, environmental management and cultural survival — if it decides that that is indeed the way to achieve its long-term objectives.

26. At the other end of the spectrum are the numerous reported cases of REDD-plus projects involving indigenous communities that appear to have signed highly disadvantageous agreements as a consequence of a lack of understanding of the implications, a lack of access to advice or information, bad faith on the part of the REDD-plus developer and in some cases, a breakdown in community governance arrangements or corruption on the part of local officials. Terms of such purported contracts have included, for example, "agreements" that the community will cease to use its forests for any production purposes, including subsistence, hunting and gathering activities. Notwithstanding the fact that the community (or certain members of the community claiming to act on its behalf) may have signed an agreement, clearly the free, prior informed consent of the community has not been given, nor are the terms mutually agreed by any reasonable definition of the terms. In some cases, the document has been prepared in the language of the developer with no faithfully translated version provided to the community. Such cases have been observed in many regions, including the Amazon and the Congo Basin countries and in the Asia-Pacific region.

V. Safeguards and standards

27. The term "safeguards" refers to the need to protect against social and/or environmental damage or harm. It is often used in reference to measures, such as policies or procedures, designed to prevent undesirable outcomes of actions or programmes. Safeguards can be an effective risk management policy, as they ensure that environmental and social issues are evaluated in decision-making, help to assess and reduce the risks and provide a mechanism for consultation and the disclosure of

information. Standards are a set of principles, criteria and indicators and a process for monitoring, reporting and verification. For indigenous peoples the use of these terms refers to respecting and implementing the rights recognized in the United Nations Declaration on the Rights of Indigenous Peoples and other relevant instruments.

28. The diversity of ideas about REDD-plus has ensured broad applicability during the initial phases of national readiness activities and project development. To guarantee sustainability, safeguards, which are ways to create standards for social rights and biodiversity, are included in the goals for REDD-plus, next to reducing emissions. REDD-plus has so far been implemented in ways that allow for different emphasis on carbon and non-carbon values, enabling a wide range of actors with different areas of interest to interpret and launch REDD-plus activities according to their own priorities. The first years of REDD-plus have shown that, where private investors or donor Governments are involved, the primary focus has been on carbon and risk mitigation. Non-carbon values, on the other hand, have been more strongly prioritized by NGOs.[3]

29. There are also groups of developing countries, for example Alianza Bolivariana para los Pueblos de Nuestra América, that oppose the carbon market unless they provide guarantees on the rights of indigenous peoples.[4] Within the Framework Convention negotiations, the groups are seeking (a) compliance with social and biodiversity standards as a precondition for funding; and (b) ways in which safeguards are addressed and respected, which are related to the setting up of mechanisms for their enforcement or verification.

30. A key point for future guidance on REDD-plus safeguards is that reporting (measurement, reporting and verification) needs to be sufficiently flexible and should aim to build on and improve existing in-country capacity. While international guidance is needed, the REDD-plus safeguard information system must be country-driven and sensitive to national circumstances. Countries have varying levels of information on REDD-plus and forests and different capacities to collect information on, monitor and report on safeguards. The information and capacity will improve as REDD-plus programmes are implemented, but early reporting requirements should respect the situation at the country level. The main challenge is to ensure indigenous peoples' full and effective participation in the process.

31. There are a number of emerging processes for the integration of safeguards within national REDD-plus programmes. Although they share commonalities, they have differences in content and approaches. The two major multilateral REDD programmes, the Forest Carbon Partnership Facility and the United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries are both in the process of finalizing guidance on social and environmental safeguards for the planning (REDD readiness phase) and implementation of national REDD-plus programmes. The United Nations Collaborative Programme approach was presented to its Policy Board, and the Forest Carbon Partnership Facility approach, the strategic environmental and social

[3] Constance L. McDermott and others, "Operationalizing social safeguards in REDD+: actors, interests and ideas", *Environmental Science and Policy*, vol. 21, 2012.

[4] Such is the case of Nicaragua, which does not use the term "REDD-plus" and has prepared a readiness preparation proposal based on its national strategy for avoided deforestation and respect for indigenous rights and autonomy.

assessment and related guidance are contained in the version 5 working draft of the readiness preparation proposal template, available on the Facility's website (www.forestcarbonpartnership.org). As mentioned previously, other relevant stakeholders have also prepared guidelines.[5]

32. The need for safeguards is also reflected in a number of recent bilateral agreements. For example, the International Climate and Forest Initiative of the Government of Norway has made its funding to Guyana and Indonesia conditional upon the implementation of certain governance requirements aimed at limiting deforestation.

United Nations Framework Convention on Climate Change

33. The principal safeguard system for national REDD-plus activities is that adopted by the parties to the United Nations Framework Convention on Climate Change in 2010 and contained in appendix I to the Cancun Agreements (FCCC/CP/2010/7/Add.1, decision 1/CP.16). As a decision of the Conference of the Parties, it constitutes an obligation on the parties to the Framework Convention and is thus binding in a way that the guidelines adopted by multilateral and bilateral REDD-plus readiness initiatives are not. As discussed below, the safeguards adopted by those initiatives are designed to be compatible with and support the Framework Convention safeguards.

34. The Conference of the Parties, in its decision on REDD-plus adopted in 2007 (FCCC/CP/2007/6/Add.1, decision 2/CP.13), recognized that the needs of local and indigenous communities should be addressed when action is taken to reduce emissions from deforestation and forest degradation in developing countries. The Bali Action Plan called for the consideration of issues, including REDD-plus, to be undertaken by an Ad Hoc Working Group on Long-term Cooperative Action. The Working Group was mandated to complete its work in 2009 and present the outcomes to the Conference of the Parties at its fifteenth session, held in Copenhagen in 2009, for adoption. As the Working Group was not ready to present its agreed outcomes in Copenhagen, the Conference of the Parties adopted a decision in which it provided additional methodological guidance on developing a REDD-plus framework at the national and international levels and reaffirmed the need for the full and effective engagement of indigenous peoples and local communities in and the potential contribution of their knowledge to monitoring and reporting activities relating to the Bali Action Plan (FCCC/CP/2009/11/Add.1, decision 4/CP.15).

35. In 2010, as part of the Cancun Agreements, the Conference of the Parties approved a framework for parties undertaking actions relating to REDD-plus (FCCC/CP/2010/7/Add.1, decision 1/CP.16, paras. 68-79). In that decision, the Conference encouraged developing country parties to contribute to mitigation actions in the forest sector by developing: (a) a national strategy or action plan; (b) a national forest reference emission level and/or forest reference level; (c) a robust

[5] A voluntary international standard for REDD-plus has also been developed through a multi-stakeholder process facilitated by CARE International and the Climate, Community and Biodiversity Alliance. The resulting REDD-plus social and environmental standards are expected to be used as a standard for Government-led programmes at the national, state, provincial and other levels and are designed to go beyond laying out minimum safeguards and to identify and elaborate benefits.

and transparent national forest monitoring system for mitigation activities in the forest sector; and (d) a system for providing information on how the safeguards are being addressed and respected throughout the implementation of the activities.

36. In the same decision, the Conference requested developing country parties, when developing and implementing their national strategies or action plans, to address: (a) the drivers of deforestation and forest degradation; (b) land tenure issues; (c) forest governance issues; (d) gender considerations; and (e) the safeguards identified in paragraph 2 of appendix I to the decision, ensuring the full and effective participation of relevant stakeholders, including indigenous peoples and local communities.

37. Appendix I to decision 1/CP.16 provides guidance and safeguards to be followed when implementing the mitigation actions in the forest sector called for in the decision. Those referred to in paragraph 2 include respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant national and international obligations, circumstances and laws, including the United Nations Declaration on the Rights of Indigenous Peoples, and the full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities.

38. The Conference of the Parties, at its seventeenth session, held in Durban, South Africa, in 2011, approved guidance to countries on systems for providing information on how all the safeguards adopted in the Cancun Agreements are addressed and respected. However, that guidance was considered by many observers to be weak with regard to safeguards to protect local communities, indigenous peoples and biodiversity, as it stopped short of approving the requirements to collect data and measure the impact of REDD-plus and requires countries to report only on how developers implement safeguard measures. At the same session, the Conference requested the Subsidiary Body for Scientific and Technological Advice to provide guidance to it at its eighteenth session, held in Doha in 2012, on the timing of the first presentation and the frequency of future presentations of information on how the safeguards are being addressed and respected and on how to ensure transparency, consistency, comprehensiveness and effectiveness when countries present the information (FCCC/CP/2011/9/Add.2, decision 12/CP.17). However, at its meetings in 2012 the Subsidiary Body was unable to agree to such guidance, and no decision was adopted in Doha. Safeguard information systems will continue to be considered by the Subsidiary Body at its meetings in 2013 with the intention of providing the requested guidance to the Conference at its nineteenth session, to be held in Warsaw in November 2013.

VI. United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries

39. The United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries supports nationally led REDD-plus readiness efforts and provides (a) direct support to the design and implementation of national programmes under the United Nations Collaborative Programme; and (b) complementary support to national REDD-plus action through common approaches, analyses, methodologies, tools, data and best practices. By

July 2012, total funding for the two streams of support to countries amounted to $117.6 million. The United Nations Collaborative Programme follows a human rights-based approach to programming and policy consistent with the statement of common understanding on a human rights-based approach to development cooperation and considers that the specific mandate and obligation of States, the United Nations and its programmes are those contained in the Cancun Agreements, the United Nations Development Group guidelines on indigenous peoples' issues; the United Nations Declaration on the Rights of Indigenous Peoples; the Convention on Biological Diversity and the Convention concerning Indigenous and Tribal Peoples in Independent Countries (Convention No. 169).

40. The United Nations Collaborative Programme Policy Board is made up of representatives from partner countries, donors to its multi-partner trust fund, civil society, indigenous peoples and FAO, UNDP and UNEP. The Policy Board's role is to approve financial allocations and give strategic direction to ensure the overall success of the Programme. The four indigenous peoples' representatives on the Policy Board are one member of the Permanent Forum and one regional representative from each of the three Programme regions (Africa, Asia-Pacific and Latin America and the Caribbean). The current representatives, who will serve until 2014, were selected by regional indigenous peoples' caucuses in July 2012.

41. The United Nations Collaborative Programme is developing a set of social and environmental principles and criteria intended to: (a) provide guidance to countries in the formulation and review of their REDD-plus national programmes and in the development of their monitoring and reporting framework; and (b) assist countries with the development of their national safeguard systems in line with the requirements under the Framework Convention. The draft, consisting of seven principles and 24 criteria, is consistent with the safeguards adopted in the Cancun Agreements, although it is not intended to comprehensively cover all of the elements therein. It is not a legally binding set of requirements. The set of environmental principles and criteria will be further developed to align with agreements made under the Framework Convention and to ensure coordination with the standards and safeguards of other initiatives, including the Forest Carbon Partnership Facility, the Climate, Community and Biodiversity Alliance and the REDD-plus social and environmental standards frameworks (see below).

42. As part of the efforts under the United Nations Collaborative Programme, in partnership with the United Nations University, Tebtebba Foundation and the secretariat of the Convention on Biological Diversity, UNDP hosted a global indigenous peoples' consultation on REDD in Baguio City, Philippines, in November 2008. The overarching principles and recommendations developed during that consultation, which included a call for engagement, information and reliance on free, prior and informed consent, provided the basis for operational guidance for the engagement of indigenous peoples and other forest-dependent communities. The United Nations Collaborative Programme has also developed guidelines on free, prior and informed consent to provide a normative, policy and operational framework for the Programme's partner countries to seek free, prior and informed consent, as and when appropriate, as determined by the country in consultation with relevant rights holders.

VII. United Nations Collaborative Programme and the Forest Carbon Partnership Facility

43. The guidelines on stakeholder engagement in REDD-plus readiness with a focus on the participation of indigenous peoples and other forest-dependent communities were developed jointly by the United Nations Collaborative Programme and the World Bank-hosted Forest Carbon Partnership Facility to guide countries in their work on stakeholder engagement in REDD-plus activities supported by either or both initiatives. Building on previous guidance, including the recommendations of the global indigenous peoples' consultation on REDD-plus held in Baguio City, Philippines, in November 2008, the joint guidelines are aimed at harmonizing the procedures and guidance material of the United Nations Collaborative Programme and the Forest Carbon Partnership Facility as much as possible in order to make operationalizing REDD-plus actions in countries where both initiatives are active a more efficient and unified process. This is in line with other work to harmonize approaches, such as the adoption of a joint readiness preparation proposal template, which also integrates elements of the joint guidelines. The joint guidelines will be reviewed periodically to update their relevance and applicability.

Forest Carbon Partnership Facility

44. The Forest Carbon Partnership Facility has adopted a common approach to environmental and social safeguards for multiple delivery partners designed to provide the World Bank and the multiple delivery partners with a common platform for risk management and quality assurance in the REDD-plus readiness preparation process, which is substantively equivalent to the safeguard policies of the World Bank. If the delivery partner's own environmental and social safeguard policies are more stringent than those of the World Bank, the delivery partner shall apply its policies and procedures to activities undertaken under the Facility's Readiness Fund.

45. To ensure that environmental and social concerns are integrated into the national REDD-plus strategy process and that the readiness activities under the Facility comply with applicable safeguards, the Facility uses a strategic environmental and social assessment, which is expected to help countries to ensure compliance with the applicable safeguards by integrating key environmental and social considerations relevant to REDD-plus, including all those covered by the applicable safeguards, at the earliest stage of decision-making and formulate their REDD-plus strategy in a way that reflects inputs from key stakeholder groups and addresses the main environmental and social issues identified. The assessment includes a stand-alone environmental and social management framework that provides a framework for managing and mitigating the potential environmental and social impacts and risks related to policy changes, investments and carbon finance transactions in the context of the future implementation of REDD-plus.

46. Attached to the common approach are the guidelines on stakeholder engagement in REDD-plus readiness with a focus on the participation of indigenous peoples and other forest-dependent communities. These guidelines provide that the activities under the Facility affecting indigenous peoples are governed by the common approach, including the operational policies of the World Bank, in particular operational policy 4.10 on indigenous peoples, and by the Facility's Charter. Operational policy 4.10 specifies that the World Bank provides financing

only where free, prior and informed consultation results in broad community support to the project by the affected indigenous peoples.

47. The World Bank's view is that the operational policy is consistent with the safeguards provisions of the Cancun Agreements, in particular the emphasis on respect for the knowledge and rights of indigenous peoples and on their full and effective participation. The World Bank deems that the policy enables it to operate in a manner that can be considered substantially equivalent to the principle of free, prior and informed consent. Furthermore, although the policy does not expressly mandate free, prior and informed consent, if the country has ratified ILO Convention No. 169 or adopted national legislation on free, prior and informed consent, or if the World Bank is working on a project with a development partner that expressly applies the principle of free, prior and informed consent, the World Bank will in turn support adherence to that principle.

48. The guidelines also specify principles and guidance for effective stakeholder engagement and practical steps for carrying out effective consultations. In order to obtain the Facility's support for the move from phase 1 (readiness) to phase 2 (early action), a country will need to prepare a readiness package, for which the Facility is developing an assessment framework. In June 2012 the Facility's Participants Committee adopted a resolution in which it defined the purpose, scope and assessment and endorsement process of the readiness package centred on: (a) a multi-stakeholder self-assessment by the country; and (b) an assessment by the Participants Committee. The guidelines provide for the inclusion and active participation of indigenous peoples' representatives in the national self-assessment. The Participants Committee includes one observer representing forest-dependent indigenous peoples and forest dwellers.

49. An interesting aspect in the process is that indigenous peoples, through a global committee, have made the World Bank support a series of meetings with indigenous peoples to bring about dialogue with a view to the revision of its policies on environmental and social safeguards related to indigenous peoples. The meetings began in Guna Yala, Panama, and the last dialogue session was held in Doha. The dialogues involved indigenous representatives from Latin America, Asia and Africa, as well as participants from the Arctic and North America.[6] Indigenous peoples have made clear to the World Bank that it should take into account the provisions of the United Nations Declaration on the Rights of Indigenous Peoples, especially on free, informed and prior consent and the full and effective participation of indigenous peoples.

Forest Investment Programme Dedicated Grant Mechanism for Indigenous Peoples and Local Communities

50. The main purpose of the Forest Investment Programme is to support developing countries' REDD efforts by providing up front bridge financing for readiness reforms and public and private investments identified through national REDD readiness strategy-building efforts, while taking into account opportunities to help them to adapt to the impacts of climate change on forests and to contribute to multiple benefits, such as biodiversity conservation, protection of the rights of indigenous peoples and local communities, poverty reduction and the enhancement

[6] Indian Law Resource Center, www.indianlaw.org.

of rural livelihoods. There are eight Forest Investment Programme pilot countries: Brazil, Burkina Faso, Democratic Republic of the Congo, Ghana, Indonesia, Lao People's Democratic Republic, Mexico and Peru.

51. The Forest Investment Programme provides for the establishment of a Dedicated Grant Mechanism for Indigenous Peoples and Local Communities to provide grants to indigenous peoples and local communities in country or regional pilot activities in support of their participation in the development of investment strategies, programmes and projects under the Forest Investment Programme. The work of the Grant Mechanism aims to achieve specific gains in tenurial rights, forest governance, livelihoods of forest-dependent indigenous peoples and local communities in a sustainable manner that enhances local empowerment. The governance structure for the Grant Mechanism comprises: (a) a Global Coordination Committee; and (b) a national steering committee for each pilot country. The first meeting of the Global Coordination Committee was held in November 2012.

International Climate and Forest Initiative

52. Like other bilateral REDD-plus initiatives, the International Climate and Forest Initiative of the Government of Norway supports readiness efforts, methodology development and pilot projects in a number of countries. While most of the Initiative's financial support is channelled through multilateral entities, between 2009 and 2012 approximately $110 million was provided through the Initiative's civil society support scheme to 40 civil society organizations and research institutions with projects at the international, national and subnational levels. The support scheme has focused on safeguards, notably those relating to indigenous peoples and other forest-dependent communities, in connection with the development of national REDD-plus strategies. The objectives of the projects funded include contributing to building the capacity of local communities and indigenous peoples to engage in the REDD-plus debate and promoting REDD-plus co-benefits and equity, in particular the safeguards associated with the rights of indigenous peoples and local communities, gender and women's rights, biodiversity conservation, fighting corruption and fiduciary control.

VIII. Voluntary carbon standards

53. Finally, as noted previously, individual REDD-plus projects are likely to be certified under voluntary carbon standards. While there are a number of applicable standards, the Climate, Community and Biodiversity Standards are being used increasingly for projects initiated by or involving indigenous peoples and other forest-dependent communities.

Climate, Community and Biodiversity Standards

54. The standards were developed by the Climate, Community and Biodiversity Alliance, which is responsible for the REDD-plus social and environmental standards. The standards identify land-based projects that are designed to deliver robust and credible greenhouse gas reductions while delivering net positive benefits to local communities and biodiversity. They can be applied to any land-based carbon project, including both projects that reduce greenhouse gas emissions through avoided deforestation and forest degradation (REDD) and those that remove carbon

dioxide by sequestering carbon (e.g., reforestation, afforestation, revegetation, forest restoration, agroforestry and sustainable agriculture). The standards are important for all phases of project planning and management, including design, implementation and monitoring.

55. The Climate, Community and Biodiversity Standards require that project proponents:

- Identify indigenous peoples, mobile peoples and other local communities who live within or adjacent to the project area, as well as any groups that regularly visit the area and derive income, livelihood or cultural values from the area
- Demonstrate with documented consultations and agreements that the project will not encroach uninvited on private property, community property or Government property and that the proponents have obtained the free, prior and informed consent of those whose rights will be affected by the project in accordance with the United Nations Declaration on the Rights of Indigenous Peoples
- Demonstrate that the project does not require the involuntary relocation of people or of the activities important for the livelihoods and culture of the communities, in accordance with statutory laws and customary rights
- Use appropriate methodologies to estimate the impact on communities, including all constituent socioeconomic or cultural groups such as indigenous peoples, of planned project activities; a credible estimate of the impact must include changes in community well-being due to project activities and an evaluation of the impact by the affected groups

56. All projects for approval under the Climate, Community and Biodiversity Standards must be validated to determine that the project design conforms with the Standards and must subsequently be verified to determine that the project has been successfully implemented, generating net positive climate, social and biodiversity benefits in accordance with its design. Approximately 100 projects worldwide have been validated or are undergoing validation under the Standards.

IX. Activities of indigenous peoples' organizations

57. Since the meeting of the Conference of the Parties in Bali, a great effort has been made to promote the rights of indigenous peoples at the Conference. Fairly significant success was achieved at the sixteenth session, held in Cancun, Mexico, at which respect for the traditional knowledge and rights of indigenous peoples and local communities and the full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities, were mentioned in decisions adopted. In this regard, it is important that lobbying and advocacy by indigenous peoples continue until a final agreement on reducing emissions from deforestation and forest degradation in developing countries is reached, so as to ensure that the rights of indigenous peoples are respected.

58. With regard to the review of the experience and position of the organizations and communities of indigenous peoples around the world on the subject of REDD-plus, there are two different scenarios:

(a) Organizations radically oppose REDD-plus owing mainly to insecurity as to the rights of indigenous peoples, the weakness of existing national legal frameworks to protect those rights and the uncertainties of the Framework Convention negotiations on REDD-plus. Those organizations are strongly opposed to the carbon market;

(b) Organizations consider the REDD-plus model as opportunities for indigenous peoples. Although they share reservations about the risks that this model offers if indigenous peoples' rights are not fully recognized and strong safeguards are not in place, some organizations are open to the voluntary carbon market.[7] Some indigenous peoples' organizations, such as the Coordinating Body of Indigenous Organizations in the Amazon Basin (COICA) and some of its associates, are defining and proposing a model of indigenous peoples' REDD-plus. Several indigenous peoples' organizations have developed capacity over the issue through training on different aspects, including measurement, reporting and verification, community mapping and advocacy.

X. Conclusions and recommendations

59. REDD-plus offers opportunities for indigenous peoples to consolidate their rights, including tenure of their territories and the implementation of community-led livelihood strategies. Governments can provide their support by recognizing indigenous peoples' rights and establishing safeguards.

60. The negotiations under the Framework Convention for a future global REDD-plus mechanism, the readiness activities currently supported by agencies and donors and the majority of individual REDD-plus projects apply standards and safeguards that seek to protect indigenous peoples' rights and support sustainable livelihoods.

61. REDD-plus is a multifaceted issue with objectives that include climate change mitigation, conservation and the sustainable use of forest biodiversity and the protection of the rights and the advancement of sustainable livelihoods of indigenous peoples and other forest dwellers. The biodiversity aspects of REDD-plus, including the application of relevant safeguards for biodiversity, are being considered under the Convention on Biological Diversity. The decisions under that Convention regarding REDD-plus are transmitted to the secretariat of the Framework Convention in order to be taken into account in the decision-making process under that Convention. At the same time, those decisions serve as guidelines to countries that are parties to the Convention on Biological Diversity to ensure that their climate change mitigation actions support their implementation of the objectives of the Convention and are incorporated into their national biodiversity strategy.

[7] Under a global partnership led by Tebtebba Foundation and with funding provided by the Climate and Land Use Alliance and the Norwegian Agency for Development Cooperation, 10 indigenous peoples' organizations are working at the grass-roots level in education and early warning on topics related to REDD-plus, building capacity in such a way that some are called to be members of the official delegations of Governments to the sessions of the Conference of the Parties to the Framework Convention. Some of those organizations include the Nepal Federation of Indigenous Nationalities (www.nefin.org.np), Centro para la Autonomía y Desarrollo de los Pueblos Indígenas (www.cadpi.org), the Mainyoito Pastoralists Integrated Development Organization (www.mpido.org) and Chirapaq (www.chirapaq.org.pe).

62. Safeguards are essentially a mechanism to avoid harm. In the case of REDD-plus initiatives, the importance of effective REDD-plus social and environmental safeguards resides in more than achieving the objective of "doing no harm"; rather, the importance of current policy efforts to reduce emissions from deforestation and forest degradation lies in the opportunity to bring about positive and measurable co-benefits for indigenous peoples.

Recommendations

63. The safeguard systems developed by climate funds and donors supporting REDD-plus readiness activities should adopt a rights-based approach that takes into account relevant international conventions and agreements, such as the United Nations Declaration on the Rights of Indigenous Peoples and ILO Convention No. 169.

64. There is a need to increase indigenous peoples' knowledge to consolidate and further advance their interests within REDD-plus.

65. Due note should be taken of the efforts of the secretariats of the Convention on Biological Diversity and the United Nations Framework Convention on Climate Change to include indigenous peoples, and there should be closer cooperation between those bodies and the secretariat of the United Nations Convention to Combat Desertification. The secretariat of the Framework Convention should be urged to strengthen the participation of indigenous peoples, including through seats in the Permanent Forum and participation in the Green Climate Fund. Full and effective participation includes the recognition of indigenous peoples as rights holders and as a separate constituency and of their right to obtain access to culturally appropriate information, to be consulted and to attend meetings of decision-making bodies, as well as to speak and engage in such meetings.

66. The Green Climate Fund and its operations and activities should be informed by a rights-based approach that prevents any negative consequence of climate change policies and programmes on the rights of indigenous peoples. In this regard, it is notable that the governing instrument of the Fund has a section on safeguards (sect. X) and on accountability (sect. XI).

67. The secretariat of the Framework Convention, the parties thereto and the donors supporting its implementation are urged to strengthen indigenous peoples' participation at the nineteenth session of the Conference of the Parties in order to ensure that the potential benefits of REDD-plus accrue to indigenous peoples. In addition, indigenous peoples' rights should be respected and enhanced through the further development and effective application of the relevant safeguard systems.

68. The Conference of the Parties is requested to establish safeguard information systems that establish baselines and enable the monitoring of the environmental and social impact of national REDD-plus activities, in lieu of requiring self-reporting by developers.

69. The approval procedures of the REDD-plus readiness programmes and climate funds require compliance with their respective safeguard systems. As noted above, these safeguards are designed to be consistent with the Framework Convention safeguards agreed in Cancun and with each other.

70. Indigenous peoples' organizations in Forest Investment Programme pilot countries can use the Dedicated Grant Mechanism to build capacity and ensure that emerging national REDD-plus programmes take indigenous rights and aspirations fully into account. The mechanism should be operationalized quickly in more countries in order to support REDD-plus programmes involving indigenous peoples. Financial support should also be provided to make them effective. Indigenous representatives should also report back on the decisions involving the programmes.

71. REDD-plus bodies and relevant donor agencies need to ensure the continued effective participation of indigenous peoples in REDD-plus processes by providing guidance on the application of safeguard systems.

72. Relevant international agencies, donors and research or other specialized organizations should consider how to make REDD-plus projects involving indigenous peoples and related information available to indigenous peoples and the general public through a dedicated multilingual mechanism or portal.

73. In addition to supporting the assessment at the global level of REDD-plus activities involving indigenous peoples and the functioning of the safeguard systems, the national REDD-plus framework should fully incorporate the international guidance given under the Framework Convention and by climate funds and other bodies into the implementation of the readiness and early-action phases of their REDD-plus strategies, in full conformity with the spirit and the letter of the applicable safeguards.

74. A number of multilateral and bilateral climate initiatives provide resources for capacity-building among REDD-plus stakeholders, including on safeguards, research and policy development, to ensure that co-benefits are captured and forest-dependent communities are involved in national REDD-plus frameworks. It is recommended that agencies and donors consider the importance of such capacity-building activities and support the expansion of such initiatives.